

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

United States Courts
Southern District of Texas
FILED*July 29, 2021*

Nathan Ochsner, Clerk of Court

United States of America)
 v.)
 REYDEL CABRALES ROSA) Case No.
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4:21-MJ-1657*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 24th, 2021 in the county of Harris in the
Southern District of Texas, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
16 U.S.C. § 707(b)(2)	sell, offer for sale, barter or offer to barter, any migratory bird
Lacey Act 16 U.S.C. §§ 3372(a)(1), 3372(a)(2)(A), 3373(d)(1)(B)	Interstate commercial trade of wildlife taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States.
Conspiracy, 18 U.S.C. § 371	Conspiracy to commit offense or to defraud United States

This criminal complaint is based on these facts:

See attached affidavit

 Continued on the attached sheet.MICHAEL SNODGRASS
Digitally signed by
MICHAEL SNODGRASS
Date: 2021.07.29
12:25:05 -05'00'*Complainant's signature**Michael Snodgrass, Special Agent**Printed name and title*

Sworn to before me and signed in my presence.

Date: 07/29/2021*Judge's signature*

Christina A. Bryan, U.S. Magistrate Judge

*Printed name and title*City and state: Houston, Texas

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

REYDEL CABRALES ROSA

Case No. 4:21-MJ-1657

**AFFIDAVIT IN SUPPORT OF
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Michael Snodgrass, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a Criminal Complaint charging Reydel Cabrales ROSA (hereinafter ROSA) with violations of the Migratory Bird Treaty Act, 16 U.S.C. § 703, et seq., the Lacey Act, 16 U.S.C. §§ 3372(a)(1), 3372(a)(2)(A), 3373(d)(1)(B), and Conspiracy, 18 U.S.C. § 371 (the Subject Offenses). The facts below support a finding of probable cause that ROSA has committed violations of the Subject Offenses.

2. I am a Special Agent (“SA”) of the United States Fish and Wildlife Service (“USFWS”), Department of the Interior, Office of Law Enforcement. I have been an agent of the USFWS since September 2019. Prior to working as a SA for the USFWS, I was employed as a Special Agent with the United States Department of State, Diplomatic Security Service for six years. I have received specialized training in criminal investigations and wildlife law enforcement at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. This training included in-depth courses involving criminal investigations, illegal means, and methods by which

wildlife is taken and possessed contrary to Federal and State wildlife laws. During my employment with the USFWS, I have conducted and participated in investigations of violations of wildlife laws and have undergone training in the identification and investigation of wildlife crimes, including investigations of the illegal domestic and international trade of wildlife and plants.

3. The facts in this affidavit come from my training, experience, personal observations, and information obtained from other federal agents, state officers, and witnesses during the course of this investigation, including audio and video recordings of undercover operations conducted by undercover officers. This affidavit is intended to show merely that there is sufficient probable cause to support the Complaint and does not set forth all of my knowledge about this matter.

PROBABLE CAUSE

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that Reydel Cabrales ROSA and others have committed and are committing violations of federal criminal law, including violations of the Migratory Bird Treaty Act (“MBTA”) Title 16 United States Code § 707(b)(2), the Lacey Act, 16 U.S.C. §§ 3372(a)(1), 3372(a)(2)(A), 3373(d)(1)(B), and Conspiracy, 18 U.S.C. § 371.

The MBTA

5. Enacted in 1918, the Migratory Bird Treaty Act (“MBTA”), Title 16, United States Code, Sections 703-712, provides in relevant part that it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation,

transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof, subject to certain exceptions not applicable in this case.

6. In short, the MBTA prohibits the knowing sale of any migratory bird. 16 U.S.C. § 707(b)(2). The MBTA also prohibits the knowing take of any migratory bird with the intent to sell such bird. 16 U.S.C. § 707(b)(2). “Take” means “to pursue, hunt, shoot, capture, collect, or kill” or attempt to do the same. 16 U.S.C. § 718j(b)(5).

7. Under Title 50, Code of Federal Regulations, Section 10.12, the term “migratory bird” means any bird whatever its origin and whether or not raised in captivity which belongs to a species listed in Title 50, Code of Federal Regulations, Section 10.13. Title 50, Code of Federal Regulations, Section 10.13 lists species of migratory birds in alphabetical order. The list includes Indigo Buntings (*Passerina cyanea*), Painted Buntings (*Passerina ciris*), and Rose Breasted Grosbeak (*Pheucticus ludovicianus*).

8. Under Title 50, Code of Federal Regulations, Section 21.11, “no person may take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and part 13 of this chapter, or as permitted by regulations in this part...”

9. On August 5, 2020, the affiant checked with the FWS Migratory Bird Permit Office as to any FWS Permits, including those for MBTA listed species, issued to Luis MARTINEZ. The affiant received a response from the Migratory Bird Permit Office, which indicated that

MARTINEZ does not possess any type of MBTA permits. On July 20, 2021, I made the same inquiry with the FWS Migratory Bird Permit Office regarding Reydel Cabrales ROSA. I was informed that ROSA does not possess any type of MBTA permits. Further, the Migratory Bird Permit Office stated that no permits are ever issued for the captive breeding or sale of Indigo Buntings (*Passerina cyanea*), Painted Buntings (*Passerina ciris*), or Rose Breasted Grosbeak (*Pheucticus ludovicianus*).

10. The Secretary of the Interior is authorized to enforce the MBTA, which provides that the Secretary and authorized employees of the Department of the Interior “shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place.” 16 U.S.C. § 706.

The Lacey Act

11. Under the Lacey Act, passed in 1900, Title 16, United States Code, Sections 3371-3378, it is unlawful to engage in the commercial trade of wildlife that has been taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States or any law or regulation of any State. 16 U.S.C. §§ 3372(a)(1), 3372(a)(2)(A) and 3373(d)(1)(B). The Secretary of the Interior is authorized to enforce the Lacey Act. 16 U.S.C. § 3375.

Declining Songbird Populations

12. According to studies by land-bird conservation groups, over one-third of North American common land-bird species have declined by more than 15% since 1970, with 46 species losing half or more of their populations—a net loss of over 1.5 billion breeding birds. Contributing

factors to this decline include urban growth, development, unsustainable agriculture, the release of domestic predators, and illegal trapping and trafficking.

13. Specifically, since 1970, the population of Indigo Buntings (*Passerina cyanea*), has decreased by 25%. Since 1972, the population of Rose-breasted Grosbeaks has decreased by approximately 40%. Songbirds, specifically Indigo Buntings (*Passerina cyanea*), Painted Buntings (*Passerina ciris*), and Rose Breasted Grosbeaks (*Pheucticus ludovicianus*), are known to the USFWS to be captured and smuggled for a variety of reasons, including the pet trade, bird fighting, and song bird competitions in which patrons bet money on the winning bird. Ongoing, parallel USFWS investigations in other parts of the United States have revealed sophisticated trapping and trafficking schemes involving these songbird species that are similar to the scheme described below.

The Investigation

14. Luis MARTINEZ lives at 16350 Villaret Dr., Houston, Texas, 77083 (Premises 1). USFWS Agents have observed MARTINEZ leave from this address in the morning on multiple occasions and return to this address at night. Further, Harris County, Texas public records show Luis A. MARTINEZ has been the owner of this residence since 2004.

15. In May 2020, the affiant received information from Texas Parks and Wildlife (TPWD) Game Wardens (GW) that vendors within flea markets in Houston, Texas were selling Indigo Buntings (*Passerina cyanea*). On May 30, 2020, a TWPW Game Warden (undercover officer 1) operating in an undercover capacity, purchased one (1) male Indigo Bunting (*Passerina cyanea*) and a cage for \$60 from Luis MARTINEZ at booth #200 at the Trader's Village Flea Market at 7979 N Eldridge Pkwy, Houston, Texas, 77041.

16. On July 25, 2020, the affiant visited the Trader's Village Flea Market at 7979 N Eldridge Pkwy, Houston, Texas, 77041. The affiant observed at booth #200 that Luis MARTINEZ had Indigo Buntings (*Passerina cyanea*) for sale in cages. When asked about contact information to purchase birds in the future, MARTINEZ provided his cell number: 832-545-0034 (the Device).

17. On July 31, 2020, TPWD GW Billy Lucio, acting in an undercover capacity and posing as a potential buyer, contacted Luis MARTINEZ via text message to the Device. In this conversation, MARTINEZ offered Indigo Buntings (*Passerina cyanea*), "Azulejos," for sale.

18. On August 3, 2020, U.S. Fish and Wildlife Service/Office of Law Enforcement (USFWS/OLE) Special Agents (SAs), including the affiant, conducted an undercover operation in which TPWD GW Billy Lucio, operating in an undercover capacity, purchased eighteen (18) Indigo Buntings (*Passerina cyanea*) from MARTINEZ for \$45 per bird for a total of \$810. In a phone call from the Device earlier that morning, MARTINEZ directed GW Lucio to meet at the Walgreens parking lot at 6768 S Texas 6, Houston, TX 77083. This Walgreens is approximately 2.3 miles from MARTINEZ' residence, 16350 Villaret Dr., Houston, Tx, 77083 (Premises 1). Immediately prior to meeting Lucio, MARTINEZ was observed leaving Premises 1, traveling in a white Chevrolet Silverado truck, displaying Texas License Plate GRN-0677, and was surveilled until arriving at Walgreens to conduct the sale of Indigo Buntings (*Passerina cyanea*).

19. From January through May 2021, USFWS/OLE SA Walter Duran, operating in an undercover capacity and posing as a potential buyer, made contact with MARTINEZ via text message and phone calls with the Device. During these conversations, MARTINEZ acknowledged the illegality of selling Indigo Buntings (*Passerina cyanea*), which he refers to as "Azuelos," stating (as translated): "The inspectors do show up here. . . . A lot of Americans, a lot of Americans

approach you and tell you, ‘Hey, this bird is illegal.’” MARTINEZ then explains that he possesses the illegal migratory birds (as translated): “Oh . . . Yes, mariposa (butterfly), mariposa (butterfly), the azuelon (Indigo Buntings). . . . I tell you I have like a hundred fifty (150). I can’t sell them, because they . . . several Americans have told me, ‘Hey, this bird is illegal.’ And before the inspector shows up and fines me, I rather put them away.” MARTINEZ further states that he stores and sells the birds at his house (as translated): “But I have them there at the house . . . and like that, I’m selling them one by one. But I’m not taking any of them to the flea market.”

20. When SA Duran asked about the possibility of MARTINEZ sending the Indigo Buntings (*Passerina cyanea*) to Miami, MARTINEZ stated (as translated): “I’ve never sent them before. I have a friend that does send them. . . . I’m going to talk to my friend and see what . . . I can arrange with him . . . what we can do.” MARTINEZ followed up (as translated): “I found out with my buddy . . . he says that is a bit complicated. Because the . . . thing is that those . . . that color . . . since it’s not legal, uh, there might be a problem. Yes. So then . . . to go ahead and do it and to . . . what is it called? To be able to send them, he says that it can be dangerous. They can . . . follow him, track him down.” When asked if MARTINEZ knew if someone else could transport the birds, MARTINEZ stated (as translated): “No, no, no . . . uh . . . he has taken some, but by . . . car. He has gone, but by . . . car, he says. Yes, he says, ‘I’ve taken some by car.’ He says, ‘But . . . by mail . . . it’s a little complicated. You can get in trouble.’”

21. In late April 2021, SA Duran, operating in an undercover capacity, contacted MARTINEZ via the Device and arranged a purchase of twenty (20) Indigo Buntings (*Passerina cyanea*) and two cages for \$750 from MARTINEZ that were to be transported to Florida by SA Duran’s friend (TPWD UC GW Lucio, operating in an undercover capacity).

22. On April 28, 2021, MARTINEZ, using the Device, stated to SA Duran that he would call a contact to purchase the birds requested by SA Duran (as translated): “I’m going to make a purchase this weekend. Look, the guy told me . . . he gave me some bullshit that he was going to go out on vacation. That he didn’t want to leave them there because they were going to die. But . . . he didn’t even want to give me a number. It’s a big quantity; I’m talking about like the guy might have like a hundred (100). . . . Yes, I’m going to buy them. No, no, the guy told me, ‘Uh, look, I have some Indigo Buntings.’ . . . So, then I tell you, I’m going to have some. And I also have a lot in the house that I’ve bought.”

23. On April 29, 2021, MARTINEZ, using the Device, stated to SA Duran: “I’ll call him right now, before I forget the name. I’ll talk to this guy right now. Because I told you they were going to bring me like sixty (60) and that’s why he was telling me right now. He’ll deliver them to me tomorrow.”

24. On April 30, 2021, the affiant surveilled MARTINEZ as he traveled to a pet store and then to a separate residence where MARTINEZ entered with an empty bird cage and emerged with a cage full of birds. The affiant then surveilled MARTINEZ as he exited his vehicle (white Chevrolet Silverado truck, displaying Texas License Plate GRN-0677) at his residence (Premises 1) and entered through the gate into the back yard with the caged birds.

25. On May 20, 2021, MARTINEZ, using the Device, called SA Duran and asked if he was still interested in the “Azuelos” (Indigo Buntings (*Passerina cyanea*)) because someone else was interested in them, stating (as translated): “I have a client that wants to purchase a lot.” When SA Duran asked MARTINEZ if the client was in Florida, MARTINEZ replied, “No, he takes them to Atlanta.” In the hours following the initial conversation, SA Duran asked MARTINEZ for the

directions or address for undercover GW Lucio to pick up the “Azuelos.” MARTINEZ provided the following address via text message from the Device: “16350 villaret dr Houston tx 77083” (Premises 1).

26. On May 24, 2021, TPWD GW Lucio (operating in an undercover capacity) went to MARTINEZ’s residence (Premises 1). Upon arrival, GW Lucio observed MARTINEZ carrying a bird cage as he walked into his garage. GW Lucio also observed MARTINEZ conducting business and exchanging cash with an unidentified Hispanic male (later identified as Reydel Cabrales ROSA) who got into a White Buick SUV displaying Texas License Plate NTY 8234 parked just in front of MARTINEZ’ residence. GW Lucio also observed MARTINEZ move bird cages into his garage from the back of his truck during this transaction. ROSA left MARTINEZ’ residence shortly after GW Lucio’s arrival and after receiving cash from MARTINEZ. During the subsequent transaction with GW Lucio for SA Duran’s birds, MARTINEZ acknowledged that he had just purchased the Rose-Breasted Grosbeak (that he then sold to SA Duran) from the man who had just left (ROSA).

27. While GW Lucio was present with MARTINEZ, SA Duran spoke with MARTINEZ via the Device and agreed to purchase two bird cages, twenty Indigo Buntings for \$35 each, two male Painted Buntings (*Passerina ciris*) for \$80 each, four female Painted Buntings (*Passerina ciris*) for \$50 each, and one Rose Breasted Grosbeak (*Pheucticus ludovicianus*) for \$75, for a total of \$1185. Due to a \$500 daily limit on the money transfer from Florida and the additional birds agreed upon during the transaction, TPWD Game Warden Lucio paid MARTINEZ \$680 in cash. GW Lucio conducted the transaction within MARTINEZ’ garage at Premises 1,

during which GW Lucio observed and video recorded numerous other birds in cages in the garage and the supplies necessary to care for these birds.

28. The twenty-seven birds were then transported by USFWS/OLE Special Agents, including the affiant, and arrived in Florida on May 26, 2021. On June 1, 2021, SA Duran sent a picture of one of the cages with Indigo Buntings and Painted Buntings via text message to MARTINEZ at the Device to let him know the birds had arrived in Florida. SA Duran also wrote a text message (as translated): “Luis, they arrived the Indigo Buntings, Painted Buntings, and Rose Breasted Grosbeak. Thank you very much. They are all very pretty.”

29. Database checks revealed the White Buick SUV displaying Texas License Plate NTY 8234 to be a vehicle registered to Reydel Cabrales ROSA at the following address: 3710 Westhampton drive, Houston, TX 77045 (Premises 2). A review of video footage taken by TPWD UC Game Warden Billy Lucio and a comparison to Reydel Cabrales ROSA’s Florida Driver’s License and Cuban Passport confirm the person TPWD UC Game Warden Billy Lucio interacted with at Premises 1 and observed transacting with MARTINEZ as described above is Reydel Cabrales ROSA. Further, when presented with ROSA’s DL photo, TPWD UC GW Billy Lucio confirmed he believes that to be the man with whom he shook hands at Premises 1 during the transaction with MARTINEZ.

30. On June 30, 2021, a TPWD Undercover Officer conducted surveillance at Premises 2. Upon arrival, the garage door was open, and the undercover officer observed numerous bird cages that were clearly visible both inside and immediately outside the garage.

31. On July 19, 2021, MARTINEZ, using the Device, stated to TPWD GW Billy Lucio (who was operating in an undercover capacity) that he currently had four or five Painted Buntings

(Passerina ciris) which he could sell for \$85 each and at least five Azuelos (Indigo Buntings (Passerina cyanea)) which he would sell for \$40 each. He stated that the meeting location was the same residence as last time (the affiant knows this to be 16350 Villaret Dr., Houston, Tx, 77083 (Premises 1)).

32. On July 27, 2021, MARTINEZ, using the Device, stated to TPWD GW Billy Lucio (who was operating in an undercover capacity) that he currently had two Painted Buntings (Passerina ciris) that he could sell GW Lucio and between ten and twelve Azuelos (Indigo Buntings (Passerina cyanea)) that he would sell GW Lucio. MARTINEZ agreed to meet GW Lucio on Friday, 30 July 2021 at 11:00 AM to make the sale.

33. On July 29, 2021, agents executed search and arrest warrants at Premises 1 and arrested MARTINEZ. Agents seized from Premises 1 Indigo and Painted Buntings. Under rights advisement and waiver, MARTINEZ admitted that he traffics in illegal birds, primarily, Indigo Buntings (which he refers to as "Azuelos") and Painted Buntings (which he refers to as "Mariposas") and, on occasion, Red Breasted Grosbeak. MARTINEZ agreed to cooperate in the investigation and stated the following.

34. Martinez explained that he first met ROSA at the Village Trader's Flea Market approximately a year-and-a-half ago. At the time, ROSA approached him and asked if MARTINEZ would like to buy Indigo Buntings at \$25 per bird. MARTINEZ agreed and bought 10 Indigo Buntings from ROSA. ROSA is one of MARTINEZ' three suppliers of illegal birds. Since that first transaction with ROSA, MARTINEZ has purchased approximately 100 Indigo Buntings and 25 Painted Buntings from ROSA. He pays ROSA \$25 per bird for Indigo Buntings and \$60 per bird for Painted Buntings. MARTINEZ and ROSA conduct their transactions orally

and without written receipts or invoices, and MARTINEZ pays ROSA in cash. ROSA delivers the birds to MARTINEZ at the flea market or at MARTINEZ' home (Premises 1). ROSA is typically driving a white Buick SUV (identified above in para. 29) when he drops off the birds. MARTINEZ confirmed that the Red Breasted Grosbeak that he sold to the undercover agent Lucio on May 24, 2021, was purchased by MARTINEZ from ROSA for \$35.

35. On July 29, 2021, agents executed a search warrant at ROSA's home (Premises 2) and found a Painted Bunting in a cage, along with other species of birds not legally possessed under the MBTA.

CONCLUSION

36. Based on the foregoing, your affiant submits that this affidavit supports probable cause to believe that Reydel Cabrales ROSA has violated the Migratory Bird Treaty Act, 16 U.S.C. § 703, et seq., the Lacey Act, 16 U.S.C. §§ 3372(a)(1), 3372(a)(2)(A), 3373(d)(1)(B), and Conspiracy, 18 U.S.C. § 371.

37. As such, I respectfully request that the court issue an arrest warrant for ROSA. The statements above are true and accurate to the best of my knowledge and belief.

Respectfully submitted,



MICHAEL
SNODGRASS

Digitally signed by MICHAEL
SNODGRASS
Date: 2021.07.29 12:25:47 -05'00'

Michael Snodgrass
Special Agent
United States Fish and Wildlife Service

Sworn to me telephonically in Houston, Texas on July 29, 2021, and I find probable cause.



HON. CHRISTINA A. BRYAN
UNITED STATES MAGISTRATE JUDGE